

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 325 w/CS Mobile Home Parks

SPONSOR(S): Fiorentino

TIED BILLS: **IDEN./SIM. BILLS:** SB 1340

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Trades, Professions & Reg. Business (Sub)</u>	<u>8 Y, 0 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Business Regulation</u>	<u>34 Y, 0 N w/CS</u>	<u>Livingston</u>	<u>Liepshutz</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Chapter 723, F.S., addresses various aspects of the relationship between mobile home owners and mobile home park owners. Section 723.0612, F.S., relates to changes in the use of land comprising a mobile home park, or a change in the portion upon which the tenant resides. It also addresses the home owners' relocation expenses and reimbursement payments by a mobile home park owner. This section provides that, if a mobile home owner is required to vacate due to a change in use of the mobile home park property, and the mobile home owner meets certain conditions, the mobile home owner is entitled to financial assistance to help offset certain related expenses.

The bill addresses the requirement that a mobile home park owner reimburse the Florida Mobile Home Relocation Corporation when the mobile home park is rezoned and payments are made to displaced mobile home owners who choose not to move the home. The current formula for payment equals one-fourth of the maximum allowable moving expense if the home owner chooses the option of selling the mobile home to the park owner and, therefore, abandoning it. The bill is designed to require payment to the corporation in the event a home owner elects the abandonment option and to increase the amounts set forth from \$750 to \$1,375 for a single section mobile home and from \$1,500 to \$2,750 for a multisection mobile home.

The DBPR estimates that no fiscal impact is anticipated. The DBPR indicates

Due to the conflicting nature of the subsection as it is currently written, the Florida Mobile Home Relocation Corporation will be invoicing the park owners the amount of the payout in accordance with Legislative intent. Therefore, HB 325 would be consistent with current practice and not affect operational revenues or expenditures.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0325b.br.doc

DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|----------------------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill is designed to increase the amount that a park owner is required to pay into the Florida Mobile Home Relocation Trust Fund. It increases the amount of reimbursement from \$750 to \$1,375 per single-section mobile home and from \$1,500 to \$2,750 per multi-section mobile home. These payments would be required when a mobile home owner makes application for financial assistance as a result of being required to move due to a change in land use by the park owner. The bill increases the amount paid by the park owner when the owner of the mobile home chooses to abandon the mobile home by selling it to the park owner rather than moving it.

B. EFFECT OF PROPOSED CHANGES:

The landlord-tenant relationship between a mobile home park owner and a mobile home owner in a mobile home park is a unique relationship. Traditional landlord-tenant concepts are thought inapplicable because of the high cost of moving a mobile home. Chapter 723, F.S, governs the relationship between mobile home park owners and mobile home owners. Section 723.004(1), F.S, provides:

The Legislature finds that there are factors unique to the relationship between a mobile home owner and a mobile home park owner. Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.

The Florida Supreme Court, in addressing mobile home park issues, states that

a hybrid type of property relationship exists between the mobile home owner and the park owner and that the relationship is not simply one of landowner and tenant. Each has basic property rights which must reciprocally accommodate and harmonize. Separate and distinct mobile home laws are necessary to define the relationships and protect the interests of the persons involved.

Stewart v. Green, 300 So.2d 889, 892 (Fla. 1974)

Chapter 723, F.S., addresses various aspects of the relationship between the mobile home owner and the mobile home park owner. Section 723.0612, F.S., relates to change in use of the land comprising the mobile home park, or a change in the portion upon which the tenant resides. It also addresses relocation expenses and payments by a mobile home park owner. This section provides that, if a

mobile home owner is required to move due to a change in use of the mobile home park property, and the mobile home owner meets certain conditions, the mobile home owner is entitled to financial assistance to help offset certain expenses.

Section 723.06115, F.S., establishes the Florida Mobile Home Relocation Trust Fund (trust fund) within the Department of Business and Professional Regulation (DBPR). The trust fund was created to provide revenues for payments to mobile home owners under the relocation program and for the administrative costs associated with managing the trust fund.

Section 723.007, F.S., imposes an annual assessment of \$4.00 per lot on mobile home lots located within mobile home parks. The fee is collected by the mobile home park owner and is paid to the Division of Land Sales, Condominiums, and Mobile Homes (division). These revenues are deposited into the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to partially fund operations of the division. Additionally, section 723.007, F.S., imposes a one dollar surcharge on the annual assessment for deposit in the relocation trust fund. Also, section 320.08015, F.S., relating to motor vehicles, imposes an additional one dollar annual license tax on mobile homes for deposit in the relocation trust fund.

Section 723.0611, F.S., relates to the Florida Mobile Home Relocation Corporation (corporation). The corporation is administered by a board of directors made up of six members. Three members appointed by the Secretary of DBPR from a list of nominees submitted by the largest nonprofit association representing mobile home owners in this state and three members appointed by the Secretary from a list of nominees submitted by the largest nonprofit association representing the manufactured housing industry in this state. The corporation is authorized to manage the relocation trust fund.

Currently, as a result of being required to relocate due to a change in the use of the mobile home park, an owner of a mobile home has the option of being reimbursed for moving expenses or for reimbursement when the mobile home owner chooses not to relocate the mobile home and it is abandoned by the owner. Under subsection (1) of s. 723.0612, F.S., the amount to be paid for moving expenses is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$3,000 for a single-section mobile home, or \$6,000 for a multi-section home whichever is less. Moving expenses are defined to include the cost of taking down, moving, and setting up the mobile home in a new location. The park owner is then required to reimburse the corporation for deposit back into the trust fund a like amount to offset the amount of the moving expense disbursement.

Under subsection (7) of s. 723.0612, F.S., a mobile home owner may elect to sell the mobile home rather than move it. When the mobile home owner makes application for payment and it is approved by the corporation, the mobile home owner is then authorized to receive compensation from the corporation which is paid out of the relocation trust fund. Payments in the amounts specified in statute are \$1,375 for a single section mobile home and \$2,750 for a multisection mobile home.

To offset the reduction in the relocation trust fund caused by disbursements, the park owner is required to make payment to the corporation under the abandonment option in an amount equal to one-fourth of the maximum allowable moving expenses specified in option one. One-fourth of the maximum allowable moving expense is \$750 for a single section mobile home and \$1,500 for a multisection mobile home.

After choosing the abandonment option, the mobile home owner is required to deliver to the park owner a clear title to the mobile home. The mobile home owner is also required to submit documentation to the corporation in order to collect for an abandoned mobile home. This section requires the home owner to provide a signed statement from the park owner stating that the mobile home has been abandoned and that the park owner agrees to reimburse the corporation for the trust fund disbursement.

Subsection (7) also provides an alternate procedure for approval of payment under the abandonment option. If the mobile home owner does not have complete documentation in the application for payment, such as when the park owner refuses to agree to pay for the abandonment, then the corporation can initiate an evaluation of the facts and circumstances surrounding the abandonment of the mobile home to determine if the mobile home owner should receive the abandonment payment.

Effect of Proposed Changes

The bill deletes the provision in subsection (7) of s. 723.0612, F.S., that requires a mobile home park owner to pay the corporation an amount equal to one-fourth of the maximum allowable moving expense if the home owner chooses the abandonment option and sells the mobile home to the park owner. The bill is designed to require payment to the corporation in the event a mobile home owner elects the abandonment option and to increase the amounts set forth in this subsection from \$750 to \$1,375 for a single section mobile home and from \$1,500 to \$2,750 for a multisection mobile home.

The bill also replaces the reference in subsection (7) to "this section" and changes the reference to "this subsection" to reflect that the reimbursement transaction means in the amounts under the abandonment option and not the moving expense option.

C. SECTION DIRECTORY:

Section 1. Amends s. 723.0612, F.S., to revise provisions for payment by a mobile home park owner to the corporation when the mobile home owner chooses to abandon the mobile home rather than relocate due to a change in the use of the mobile home park.

Section 2. Effective date - upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None anticipated. See fiscal comments in D. below.

2. Expenditures:

None anticipated. See fiscal comments in D. below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None anticipated.

2. Expenditures:

None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill deletes the language limiting the mobile home park owners' reimbursement payment to the corporation to a maximum of \$750 and \$1,500. The intent of the bill, as stated by the sponsor, is to require the park owners to make payment to the corporation in the same amount provided to the home owner. The bill is designed to increase the reimbursement amounts set forth from \$750 to \$1,375 for a single section mobile home and from \$1,500 to \$2,750 for a multisection mobile home.

D. FISCAL COMMENTS:

The DBPR notes:

HB 325 is a glitch bill. It amends language in subsection 723.0612 (7), Florida Statutes, relating to payments to the Florida Mobile Home Relocation Corporation, in order to conform with changes made to the subsection in Chapter 2003-263, L.O.F.

The DBPR further estimates:

No fiscal impact is anticipated. Due to the conflicting nature of the subsection as it is currently written, the Florida Mobile Home Relocation Corporation will be invoicing the park owners the amount of the payout in accordance with Legislative intent . Therefore, HB 325 would be consistent with current practice and not affect operational revenues or expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

NA

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The CS clarifies that the park owner is required to pay into the fund in an amount equal to the payment to the home owner. The CS removes the formula for payment thus requiring equal payment.